

City Council **November 6, 2013**

Case: LDC-1-1013

Staff Contact: Christine Hughes; christine.hughes@wilmingtonnc.gov; 910-341-5885

Staff Recommendation: Approval

Planning Commission Approval, 6-0
Recommendation:

City Council Action:

Request

<i>Code Section(s)</i>	Multiple
<i>Request</i>	Ongoing code maintenance
<i>Applicant</i>	City of Wilmington

Case Overview

This staff report outlines several changes to the Land Development Code, which are presented in an effort to keep the code current, respond to community needs and planning best practices, and to correct previous code changes.

I. Projecting Signs in Residential Districts within the 1945 Corporate Limits

<i>Code Section(s)</i>	Sec. 18-577
<i>Request</i>	Allow permitted nonresidential uses to have a single projecting sign in lieu of a freestanding sign

ANALYSIS

There are a number of permitted nonresidential uses such as churches and schools within residential districts. These nonresidential uses typically have signage onsite. Within the 1945 Corporate Limits, where lots are typically small, often narrow, and buildings are frequently located very close to the sidewalk, there may not be sufficient area onsite for a freestanding sign. In order to preserve the unique character of the older parts of the city, particularly a site design that caters to a pedestrian scale, it is proposed that these nonresidential uses be permitted to have a projecting sign in lieu of a freestanding sign. The projecting sign would be subject to the projecting sign regulations of the CBD, Central Business district (Sec. 18-575, see attachment 1), including a sign area limited to 15 square feet. Illustrations 1 and 2, below, depict scenarios in which a projecting sign is used in lieu of a freestanding sign.

HISTORY

There is a long history of allowing site design flexibility within the 1945 Corporate Limits, due to its historic, compact development pattern. Particularly, flexibility is granted for setbacks and

streetyards. Consideration for the current amendment was generated by a specific existing church where issues were encountered with placement of a freestanding sign on-site.

Illustration 1. Projecting Sign.

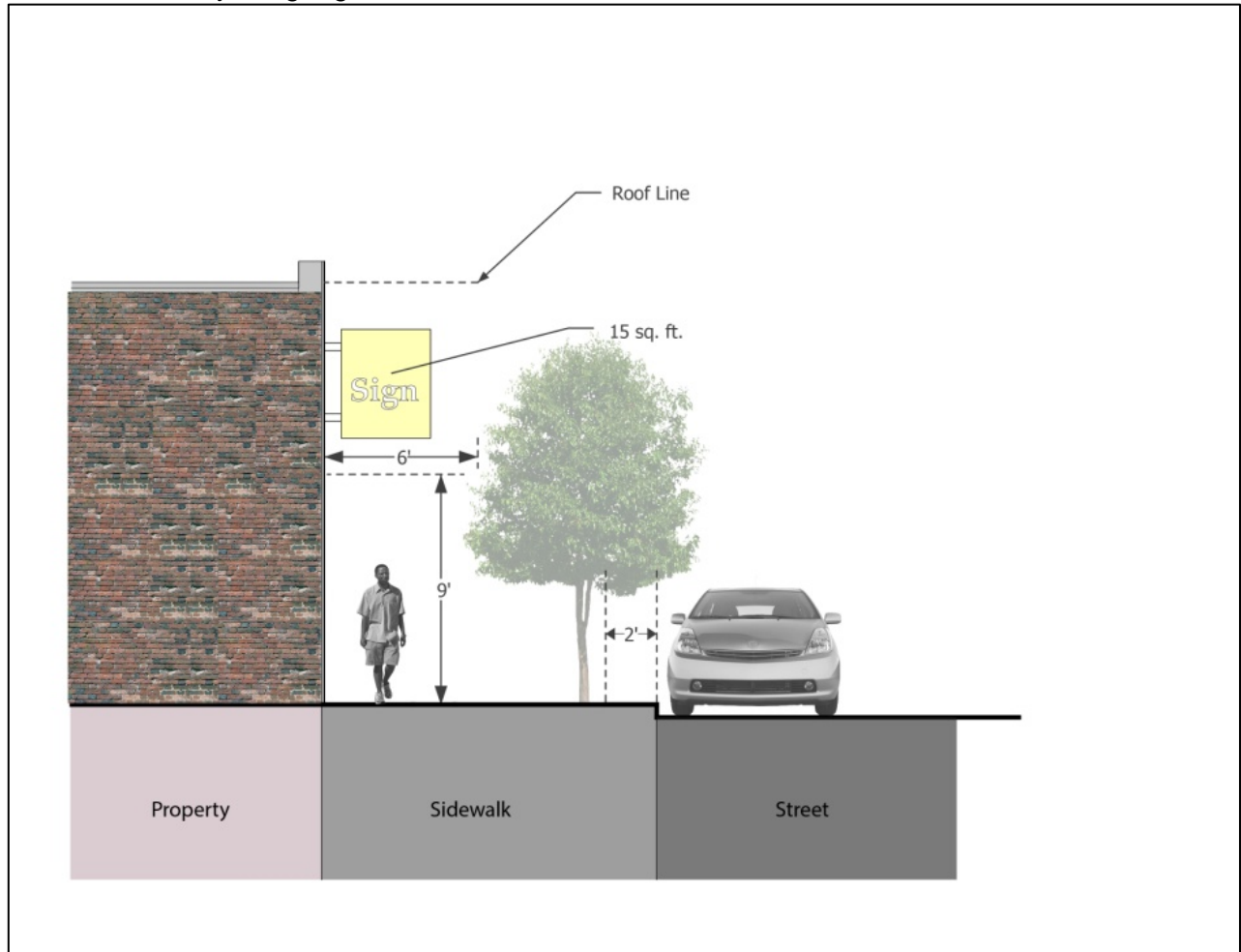
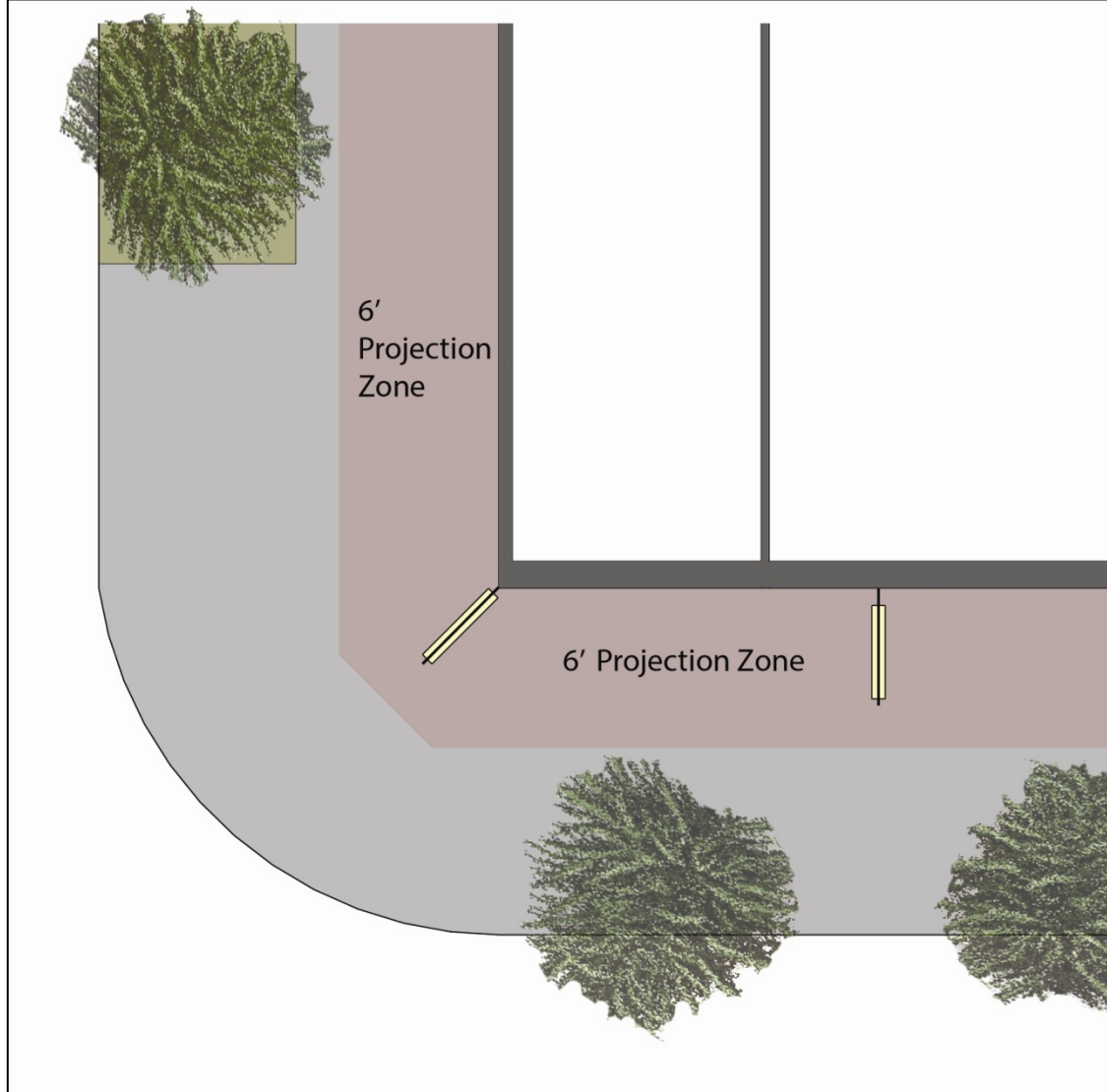


Illustration 2. Projecting Sign.



PROPOSED AMENDMENT

Following is the proposed amendment to the Land Development Code. Additions are underlined.

Sec. 18-577. Signs permitted in Residential Districts.

Signs are allowed as follows in Residential Districts R-15, R-10, R-7, R-5, R-3, MHP, MF-L, MF-M, MF-MH, and MF-H:

Note: In that portion of the R-5 and R-7 Districts in the Historic District Overlay, commonly referred to as Carolina Heights, a certificate of appropriateness shall be obtained from the historic preservation commission or the historic preservation planning staff prior to the issuance of a sign permit. The certificate of appropriateness shall be required whether or not a sign permit is required. The boundaries of the Historic District Overlay shall be determined from maps or files in the Development Services Department.

(d) For permitted nonresidential uses, including churches and synagogues, one (1) free-standing sign per frontage, not exceeding thirty-five (35) square feet in sign area, and one (1) marquee sign not to exceed twenty-five (25) square feet in sign area. Within the 1945 Corporate Limits, a single projecting sign may be permitted in lieu of any freestanding sign, subject to the regulations described in 18-575(e).

(For the full text of Sec. 18-575, see attachment 1)

CONCLUSIONS

- The proposed amendment would allow for some flexibility in signage for nonresidential uses permitted in residential zoning districts within the 1945 Corporate Limits, while helping to protect the unique character and pedestrian scale of the area.
- There would be no increase in the total number of signs on a site as proposed.
- Projecting signs would be permitted according to the regulations established for the CBD, Main Street Mixed Use (MSMU), Riverfront Mixed-use (RFMU), and Urban Mixed-use (UMX) districts.

II. Setbacks within the Central Business District (CBD)

<i>Code Section(s)</i>	Sec. 18-196
<i>Request</i>	To amend the setback requirements to allow a flexible 5-foot setback

ANAYLSIS

Related to setbacks, buildings must generally be built to the property line with no ability to setback any distance from the property line. Up to half of a building's façade may be voluntarily setback a distance equal to no more than 15% of the building height, provided that the area of setback is constructed as a plaza. Prior to the 2008 revisions to the CBD regulations, up to a five-foot setback, rather than no setback, was allowed. The proposed amendment would restore the five-foot setback, rather than requiring that buildings be constructed at the property line. The requirement to hardscape all areas of setback would remain. Illustration 2, below, depicts how a building may be constructed with the proposed five-foot setback.

HISTORY

A major revision to the CBD regulations was adopted in 2008. Prior to the 2008 amendments, buildings north of Red Cross Street were allowed to be setback up to five feet from the property line. The 2008 amendments revised the setback regulations to require buildings to be set at the property line with no setbacks at all. These revisions also included the provision for a voluntary setback of half of the building for the creation of a plaza. Since 2008, several projects have been reviewed and constructed, including the Cape Fear Community College Fine Arts Center, Marriott, and City Block Apartments. As a result of the requirement of placing the building at the property line, every new project has required multiple variances for encroachment into the public right of way.

Illustration 3. Optional five-foot setback.



PROPOSED AMENDMENT

Following is the proposed amendment to the Land Development Code. Additions are underlined.

Sec. 18-196. CBD, Central Business District.

(e) *Development Standards.* All uses and structures permitted within the CBD shall meet the applicable development standards established in this section and all other applicable requirements of these regulations. Within the Historic District Overlay (HDO), building design is subject to Historic

Preservation Commission (HPC) review. Approvals for projects within the HDO may necessitate the meeting of a more restrictive standard than required by this section. The HPC does not have the authority to waive the requirements of this section.

- (2) Along all public rights-of-way, at least fifty (50) percent of the building wall shall be setback at within five (5) feet from the property line. For the remaining fifty (50) percent of the building wall, setbacks may be voluntarily increased to a depth no greater than fifteen (15) percent of the building height, provided that the following criteria are met:
- a. The non-planter areas of the setback shall be hardscaped, i.e. paved. Sixty (60) percent of the proposed hardscaped, non-planter setback areas shall be covered with pavers approved by the City Engineer. Forty (40) percent of the proposed hardscaped, non-planter setback area may be paved with light-colored (not white) concrete in lieu of pavers.
 - b. At least forty (40) percent of the edge of the public right-of-way shall be defined by a vertical element not greater than three (3) feet in height. No physical barrier shall entirely prevent the pedestrian public from entering the private property setback.
 - c. Planters, raised, recessed, or contained shall be installed in the front setback area to accommodate canopy or understory trees at a minimum of one (1) tree per one-thousand two hundred (1,200) square feet of increased front setback area between the outermost side facades of the building. The area used for the calculation of increased front setback shall not include the square footage beneath building overhangs and fountains or sculptures larger than three (3) square feet.
 - d. Trees and any additional vegetation in the setback area shall meet the general landscaping requirements of Sec. 18-448 of this chapter except subsections (c), (d), and (e) and opacity is not required.
 - e. Trees and shrubs in the setback area shall be maintained by the owner to ensure that the material remains living and prospers.

CONCLUSIONS

- The current regulations require new buildings to be built to the property line, without any setback.
- When built to the property line, any part of a building, including architectural features, footers, foundation, shoring, balconies, door swings, awnings, and gutters, that extends into a right-of-way requires an encroachment agreement.
- The result of requiring buildings to be built to the property line has been that every new building built to the property line requires some sort of encroachment agreement and/or variance, by the nature of the building being built to the right-of-way line.
- Adding the flexibility of an optional five-foot setback would allow for the placement of buildings such that certain elements may no longer encroach into the right-of-way without interrupting the rhythm of the streetscape.
- Major encroachments (greater than 12 inches) would still require approval by City Council and minor encroachments (less than 12 inches) would still require approval by the City Engineer.

RECOMMENDATION

Regular maintenance is critical to the viability of any development code. The proposed amendments help keep the LDC current and responsive to development trends. The amendments are consistent with the City Council's adopted focus areas of Sustainability and Adaptability and Diverse, Vibrant Neighborhoods, and Thriving Economy; therefore, staff recommends **approval of proposed amendments to the Land Development Code.**

NEIGHBORHOOD CONTACT

	Planning Commission	City Council
<i>Advertisement Date(s)</i>	9/27/13	10/25/13 & 11/1/13

ACTIONS TO DATE

<i>Planning Commission</i>	Recommended approval, 6-0
<i>City Council</i>	Scheduled for public hearing 11/6/13

Information from the 10/2/13 Planning Commission meeting:

No one spoke in favor of or in opposition to the proposed amendment. After a brief discussion, the Planning Commission voted unanimously to recommend approval of the amendment.

ATTACHMENTS

1. CBD Sign Regulations (Sec. 18-575)
2. Planning Commission Recommendation (10/2/13)
3. Planning Commission 10/2/13 meeting minutes (draft)